IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTY.'S DOCKET: MOTOYAMA=1

In re Application of:	)	Art Unit: 1655
Yasuo MOTOYAMA, et al.	)	Examiner: J. TAYLOR
Serial No.: 09/762,633	)	Confirmation No.
Filed: February 12, 2001	)	Washington D.C.
For: GENES FOR DETECTING BACTERIA AND A METHOD FOR DETECTING...	)	June 18, 2001

RESPONSE

Honorable Commissioner for Patents
Washington, D.C. 20231

The Official Action of May 18, 2001, in the nature of a requirement for restriction, has been carefully reviewed. Favorable consideration is respectfully requested.

Applicant has been required to elect a single invention to which the claims must be restricted by electing one sequence represented by one SEQ ID NO.

Applicants hereby provisionally elect, with traverse and without prejudice, claims 3, 4, 6, 8, 10, and 12, directed to *Pectinatus cerevisiiphilus*.

The claims elected are all directed to *Pectinatus cerevisiiphilus*. It is believed that claims 3, 4, 6, 8, 10, and 12 are all directed to the same invention because, when one DNA region is amplified by PCR, it is well known that both short and long sequences are obtained. The short sequence is obtained when the middle parts of the long sequence are deleted.

In claims 1-4, *Pectinatus frisingensis* (claims 1,2)

and *Pectinatus cerevisiiphilus*. (Claims 3 and 4) are claimed in the form of gene sequences of a spacer region. Similarly, in claims 5-12, *Pectinatus frisingensis* (claims 5, 7, 9 and 11) and *Pectinatus cerevisiiphilus*. (Claims 6, 8, 10 and 12) are claimed. Therefore, it is believed that the claims should be grouped into two groups, namely,

Group 1, claims 1, 2, 5, 7, 9, and 11;

Group 2, claims 3, 4, 6,8, 10 and 12.

Applicants hereby elect the claims of Group 2 directed to *Pectinatus cerevisiiphilus*, claims 3, 4, 6, 8, 10 and 12.

If the restriction requirement is maintained, it will be clear on the record that the PTO considers the two groups to be **patentably distinct** from one another, *i.e, prima facie* **non obvious** from one another. This means that a reference identical to the one group would not render the other group *prima facie* obvious.

Favorable consideration is respectfully requested.

Respectfully submitted,

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